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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/421,580	10/20/1999	KIM C. SMITH	98-0863	4351
32718	7590	10/09/2003	EXAMINER	
GATEWAY, INC.			TRAN, MYLINH T	
ATTN: SCOTT CHARLES RICHARDSON			ART UNIT	PAPER NUMBER
610 GATEWAY DR., Y-04			2174	19
N. SIOUX CITY, SD 57049			DATE MAILED: 10/09/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/421,580	KIM C. SMITH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mylinh T Tran	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on Appeal Brief filed 07/17/03.

2a) This action is **FINAL**.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-76 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-76 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### **Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

Applicant's Appeal Brief filed 07/17/03 has been entered and carefully considered. However, arguments regarding rejections under 35.U.S.C 102 and 35 U.S.C 103 to claims (1-76) have not been found to be persuasive over prior art of record and newly discovered prior art, therefore, claims 1-76 are rejected under the new ground of rejection as set forth below.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 10-16, 18-20, 23-29, 31-33, 36-42, 44-46 and 49-76 are rejected under 35 U.S.C. 102(b) as being anticipated by Goh [US. 5,678,015].

As to claims 1, 14, 27 and 40, Goh discloses at least two selectable targets displayed on at least a portion of said display (each window in figure 5 represents each selectable target); said at least two selectable targets capable of being displayed in a simulated rotation about an axis while remaining continuously selectable during said simulated rotation (column 6, lines 1-10); a cursor capable of being displayed on said display a cursor control device capable of controlling said cursor's position and movement on said display (column 4, lines 15-16).

As to claims 2, 15, 28 and 41, Goh teaches the interface being capable of varying the displayed size of said targets during said simulated rotation about said axis. In figure 5, the windows (104, 106) and their icons rotatare about Y axis. Window (104) would change its size (smaller) when it moves to the back of the screen (500) due to the viewing point perspective.

As to claims 3, 16, 29 and 42, Goh demonstrates targets are associated with a corresponding function capable of being performed in response to selection of said targets by a user via said cursor and said cursor control device. The icons are a part of the windows (targets). Once the user clicks one of the icons, the icon would launch to a program or a function which is associated with that icon.

As to claims 5, 7, 18, 20, 31, 33, 44 and 46, Goh also demonstrates the interface is capable of modifying said targets being displayed on said display in response to a change in focus on content being displayed in another portion of said display (column 3, lines 47-60).

As to claims 6, 19, 32 and 45, Goh teaches the interface is capable of displaying said simulated rotation of said targets about said axis in a simulated three dimensional presentation (column 2, lines 37-52).

As to claims 10, 23, 36 and 49, Goh also shows the targets are displayed as an animated sequence of movement (column 1, lines 43-50).

As to claims 11, 12, 24, 25, 37, 38, 50 and 51, Goh discloses each of said at least two selectable targets is presented as a polygonal shaped target and

polygonal shaped target is capable of displaying content on each of its user-visible sides (figure 6 and column 15, lines 15-35).

As to claims 13, 26, 39 and 52, Goh also discloses the targets are capable of remaining visible as said targets travel in a simulated rotation about said axis (column 5, lines 20-50).

As to claims 53, 59, 65 and 71, Goh discloses "the simulated rotation is a 360 degree revolution in a substantially circular orbit about said axis" at figure 5.

The polyhedron rotates under the user's control so that each face is presented to the user. It is clear that the user can view all of the faces of the polyhedron. That means the polyhedron can rotate 360 degree in a circular orbit about the axis.

As to claims 54, 60, 66 and 72, Goh also discloses "said all of said at least two selectable targets are located at different points along a common orbit about said axis during said simulated rotation". It is clear that when the polyhedron rotates, each face (selectable target) is located at different points (figure 5).

As to claims 55, 61, 67 and 73, Goh teaches "two or more of said at least two selectable targets are located in different orbits about said axis during said simulated rotation". Two faces (104, 106) rotate in one orbit. Other two faces (up and down) rotate in other orbit.

As to claims 56, 62, 68 and 74, also Goh teaches "said different orbits are located in parallel planes"

As to claims 57, 63, 69 and 75 and 58, 64, 70 and 76, Goh shows "said axis substantially lies within a plane of a screen of said display". It is clearly that the axis lies within the plane (500) of figure 5.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 17, 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goh [US. 5,678,015] in view of Nielsen [US. 6,078,935].

As to claims 4, 17, 30 and 43, the difference between Goh and the claim is interface being capable of displaying additional information, on at least a portion of said display, associated with a specific target when said cursor is positioned at least partially within said specific target's hotspot boundary. Nielsen shows the feature at figure 4, column 1, line 60 through column 2, line 8 and column 4, lines 55-68. It would have been obvious to one of ordinary skill in the art, having the teachings of Goh and Nielsen before them at the time the invention was made to modify the selectable targets taught by Goh to include the additional information which is attached to the targets when the cursor is placed over the target, in order to provide the user more information about the selectable targets as taught by Nielsen.

***Allowable Subject Matter***

Claims 8, 9, 21, 22, 34, 35, 47 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims would be allowable because the prior art fails to teach or suggest the feature "the cursor being capable of modifying its presentation into a shape similar to the shape of a specific target which is being given focus by said cursor".

***Response to Arguments***

Applicant's arguments with respect to group VI, VII, VIII and IX have been considered but are moot in view of the new ground(s) of rejection.

Regarding group I, Applicant has argued that Goh does not disclose "how a window is selected in the case where overlapping windows are shown". However, the Examiner does not agree because even though the user must rotate a target such that it is the top image layer and then select, the system of Goh (figure 5) still shows at least two selectable targets (104), (106) for the user to select from at the same time. The claim recites "all of said at least two selectable targets displayed on said at least a portion of said display capable of being simultaneously displayed in a simulated rotation about an axis" and "each one of said all of said at least two selectable targets displayed on said at least a

portion of said display remains continuously selectable during said simulated rotation". The Examiner interprets a language of the term "all of said at least two selectable targets" of the claim in a broad interpretation as only two selectable targets displayed on the portion. Therefore, figure 5 of Goh shows the two selectable targets (104), (106). The two windows (104) and (106) are still represented for the users to select in the case the two back windows are overlapped. Applicant's attention is also directed to figure 12 of the invention. It looks similar to figure 5 of the prior art (Goh).

Regarding group III, Applicant argues Goh does not teach "said simulated rotation is a 360 degree revolution in a substantially circular orbit about said axis" and "each one of said all of said at least two selectable targets displayed on said at least a portion of said display remains continuously selectable during simulated rotation". While Goh proves to show "each one of said all of said at least two selectable targets displayed on said at least a portion of said display remains continuously selectable during simulated rotation", it also teaches "said simulated rotation is a 360 degree revolution in a substantially circular orbit about said axis". All the targets would rotate around the substantially circular orbit because the target has to get back to the user. How can these targets get back to the user if they don't rotate 360 degree?

Regarding groups IV and V, Applicant has also argued in Goh system there is no "said axis substantially lies within a plan of a screen of said display" and "said axis is substantially normal to a plane of a screen of said display".

However, the arguments are not persuasive because even though there is not visually the axis, but the users always can image a string (axis) going through of the middle of the plan of figure 5.

***Conclusion***

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires fax a response, (703) 746-7238), may be used for formal After Final communications, (703) 746-7239 for Official communications, or (703) 746-7240 for Non-Official or draft communications. NOTE, A Request for Continuation (Rule 60 or 62) cannot be faxed.

Please label "PROPOSED" or "DRAFT" for information facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran whose telephone number is (703) 308-1304. The examiner can normally be reached on Monday-Thursday from 8.00AM to 6.30PM

If attempt to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640,

All Internet e-mail communications will be made of record in the

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application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Mylinh Tran

Art Unit 2174

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